

Message Text

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ACTION NEA-10

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C O N F I D E N T I A L CAIRO 13538

FOR NEA/EX

EO 11652: GDS
TAGS: ASUP, PDIP
SUBJ: DUTY-FREE PRIVILEGES AND TAX LIABILITIES OF FOREIGN
SERVICE NON-DIPLOMATIC PERSONNEL

REF (A) STATE 183999, (B) CAIRO 11201,

1. AS DEPT IS AWARE, EGYPT BECAME A PARTY TO THE VIENNA CONVENTION WITH RESERVATIONS TO ART 37, PARA 2, WHICH PERTAINS TO PRIVILEGES AND IMMUNITIES OF ADMINISTRATIVE AND TECHNICAL STAFF OF EMBASSY. (SEE 74 STATE 44797, MARCH 7; 74 STATE 102912, MAY 17, PARA 4. PRIVILEGES AND IMMUNITIES OF NON-DIP MEMBEF OF THE MISSION, HOWEVER, HAVE BEEN BASED ON RECIPROCITY. WE UNDERSTAND THAT ALL BUT TWO OR THREE MEMBERS OF THEIR EMBASSY WASHINGTON STAFF ARE ON THE DIP LIST, WHICH CREATES A DIFFERENT PERSPECTIVE FROM WHICH P&I CONSIDERATIONS ARE VIEWED.

2. AS PREVIOUSLY REPORTED IN REF B, PRIVILEGES GRANTED TO DIPLOMATIS BUT NOT TO NON-DIPLOMATS ARE:

A) TAX-EMPT GASOLINE. NON-DIP PERSONNEL MUST PAY APPROXIMATELY

3. CENTS TAX PER GALLON OF GAS.

B) DUTY-FREE ENTRY OF HHE. NON-DIPLOMATIS ARE GRANTED DUTY

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FREE ENTRY ONLY DURING THE FIRST SIX MONTHS OF THEIR ASSIGNMENT.

C) MOTOR VEHICLES. GOE CUSTOM REGULATIONS RESTRICT NON-DIPLOMATS FROM IMPORTING A NEW VEHICLE. EMBASSY HAS CONVINCED MFA, ON BASIS OF RECIPROCITY, THAT NEW CARDS MAY BE IMPORTED TAX FREE BY NON-DIPS. VEHICLES MUST ARRIVE EGYPT WITHIN SIX MONTHS OF EMPLOYEE'S ARRIVAL.

D) ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS. DIPS ARE PERMITTED TO IMPORT A SPECIFIC NUMBER OF CASES OF HARD AND SOFT (WINE, BEER) LIQUOR AND TOBACCO PRODUCTS PER MONTH. NON-DIPS ARE NOT. THIS PROBLEM HAS BEEN RESOLVED BY COMBINED RATIONS BEING IMPORTED BY THE EMBASSY COMMISSARY FOR THE BENEFIT OF ALL.

3. PRIVILEGES AND IMMUNITIES FOR MEMBERS OF TWO US GOVT AGENCIES ARE GOVERNED BY SPECIAL AGREEMENTS WITH THE EGYPTIAN GOVT.

A.1) USAID. THE DIR AND DEPDIR HAVE BEEN GRANTED DIP TITLES AND ARE ON THE DIP LIST. PRIVILEGES FOR ALL OTHER AID PERSONNEL ARE COVERED BY THE GENERAL AGREEMENT ON TECHNICAL COOPERATION BETWEEN EGYPT AND THE USA. PERSONAL EFFECTS, INCLUDING ONE VEHICLE, MAY BE IMPORTED DUTY-FREE ANY TIME DURING THE EMPLOYEE'S STAY IN EGYPT. THE EXEMPTION ALLOWED AID PERSONNEL IS THEREFORE EQUAL TO THAT OF A DIP OFFICER. AID PERSONNEL MAY NOT, HOWEVER, SELL THEIR CARS OR PERSONNEL EFFECTS WITHOUT PAYING THE DUTY UNLESS THE EFFECTS HAVE BEEN IN EGYPT FOR AT LEAST THREE YEARS.

A.2) WE HAVE PRESENTED A DRAFT OF NEW AID AGREEMENT TO THE MFA, AND NEGOTIATIONS ARE EXPECTED TO BEGIN SHORTLY. THE THREE-YEAR RESTRICTION ON SALE OF PERSONAL PROPERTY AND POV'S HAS BEEN REMOVED FROM THE DRAFT. WHETHER THIS WILL BE ACCEPTABLE TO THE MFA REMAINS TO BE SEEN.

B.1) NAVAL RESEARCH UNIT (NAMRU). CUSTOMS PRIVILEGES FOR NAMRU PERSONNEL ARE COVERED BY A SPECIAL EXEMPTION GRANTED BY THE CONFIDENTIAL

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GOE COUNCIL OF MINISTERS. COMPLETE FREE ENTRY PRIVILEGES ARE GRANTED (INCLUDING ALCOHOLIC AND TOBACCO PRODUCTS), BUT CUSTOMS DUTIES MUST BE PAID IF EFFECTS, IMPORTED UNDER THE EXEMPTION, ARE SOLD IN EGYPT.

B.2) A NEW AGREEMENT FOR NAMRU HAS ALSO BEEN REDRAFTED AND IS NOW BEING NEGOTIATED WITH THE MINISTRY OF HEALTH AND MFA. IF ACCEPTED, MEMBERS OF NAMRU STAFF WILL HAVE THE SAME PRIVILEGES AND IMMUNITIES NOW GRANTED BUT WITH ABILITY TO SELL THEIR POV AND EFFECTS WITHOUT PAYMENT OF DUTIES.

4. ASSESSMENT OF IMPACT. BY SHARING THE DIP IMPORTATION PRIVILEGES, WE ARE ABLE TO OPERATE A SMALL COMMISSARY WHICH, IN ADDITION TO FOOD ITEMS, PROVIDES FOR THE REQUIREMENTS OF OUR NON-DIP COLLEAGUES FOR TOBACCO AND CONSUMABLES. THE DEPT SHOULD BE AWARE, HOWEVER, THAT THE MFA IS EXTREMELY ATTENTIVE TO OUR IMPORTS AND SEEMS TO HAVE A RECURRING PROBLEM OF REMEMBERING THE PROVISIONS OF THE AID AGREEMENT, OF WHICH WE FIND IT NECESSARY TO REMIND THEM ON REGULAR OCCASIONS. BECAUSE OF THIS SENSITIVITY, WE HAVE HAD TO TAKE A FIRM LINE AGAINST THE EXTENSION OF COMMISSARY PRIVILEGES TO VARIOUS CONTRACTORS OF USG AGENCIES WORKING IN EGYPT, WHICH WAS THE SUBJECT OF CAIRO 12770 RECENTLY.

5. SO LONG AS WE CAN CONTINUE OUR PRESENT PRACTICES, I WOULD CONSIDER THE CONSEQUENCES OF THE DIFFERENCES IN IMPORTATION PRIVILEGES TO BE MINIMAL, BOTH FROM A FINANCIAL STANDPOINT AND OTHERWISE.

6. A MORE SERIOUS POTENTIAL PROBLEM DERIVING FROM EGYPT'S RESERVATION TO ART 37 OF THE VIENNA CONVENTION EXISTS IN THE MATTER OF IMMUNITY FROM ARREST AND PROSECUTION. WE FACED THIS ISSUE SQUARELY AND RECENTLY IN THE UNFORTUNATE INCIDENT INVOLVING THE SHOOTING OF AN EGYPTIAN SECURITY AGENT BY A MARINE GUARD. GIVEN THE CHAOTIC DRIVING HABITS IN EGYPT AND THE UNPREDICTABLE HABITS OF PEDESTRIANS, WHO CROSS STREETS IN HEAVY TRAFFIC WITHOUT WARNING AND APPARENTLY CONFIDENTIAL

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WITHOUT REGARD FOR THEIR LIVES, IT IS POSSIBLE TO FORESEE A SITUATION IN WHICH A NON-ACCREDITED STAFF MEMBER COULD CAUSE INJURY OR DEATH TO A PEDESTRIAN DESPITE PRUDENT AND CAREFUL HANDLING OF HIS VEHICLE. AS MATTERS PRESENTLY STAND, THERE IS NO FORMAL RECOURSE TO THE VIENNA CONVENTION UPON WHICH A PLEA FOR IMMUNITY COULD BE MOUNTED, AND I WOULD SERIOUSLY QUESTION IN THE LIGHT OF OUR RECENT EXPERIENCE WHETHER AVOIDANCE OF AN APPEARANCE BEFORE A POLICE INVESTIGATION OR A COURT COULD BE AVOIDED IN SUCH A CIRCUMSTANCE. THIS PROBLEM WILL CONTINUE TO GROW IN MAGNITUDE AS THE AID STAFF EXPANDS IN RELATION TO THE MAGNITUDE OF THE PROGRAM AUTHORIZED FOR THE NEXT AND SUCCEEDING FISCAL YEARS. IT IS IMPORTANT THAT THE DEPT RECOGNIZE THE LACK OF IMMUNITY IN THESE CIRCUMSTANCES. EILTS

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